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**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

SABER AHMED, individually and on)	Case No.
behalf of all others similarly situated,)	
	)	<u>CLASS ACTION</u>
Plaintiff,)	
	)	COMPLAINT FOR VIOLATIONS
vs.	)	OF:
)	
HSBC BANK USA, NATIONAL	)	1. NEGLIGENT VIOLATIONS
ASSOCIATION,	)	OF THE TELEPHONE
	)	CONSUMER PROTECTION
	)	ACT [47 U.S.C. §227 ET
Defendant.	)	SEQ.]
	)	2. WILLFUL VIOLATIONS
	)	OF THE TELEPHONE
	)	CONSUMER PROTECTION
	)	ACT [47 U.S.C. §227 ET
	)	SEQ.]
)	
	)	<u>DEMAND FOR JURY TRIAL</u>
)	

Plaintiff Saber Ahmed (“Plaintiff”), individually and on behalf of all others similarly situated, alleges the following upon information and belief based upon

1 personal knowledge:

2 **NATURE OF THE CASE**

3 1. Plaintiff brings this action individually and on behalf of all others
4 similarly situated seeking damages and any other available legal or equitable
5 remedies resulting from the illegal actions of HSBC Bank USA, National
6 Association (“Defendant”) in negligently, knowingly, and/or willfully contacting
7 Plaintiff on his cellular telephone in violation of the Telephone Consumer
8 Protection Act, 47 U.S.C. § 227 *et seq.* (“TCPA”), thereby invading Plaintiff’s
9 privacy.

10 **JURISDICTION & VENUE**

11 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,
12 a resident of California, seeks relief on behalf of a Class, which will result in at
13 least one class member belonging to a different state than that of Defendant, a
14 company with its principal place of business and State of Incorporation in New
15 York State. Plaintiff also seeks up to \$1,500.00 in damages for each call in
16 violation of the TCPA, which, when aggregated among a proposed class in the
17 thousands, exceeds the \$5,000,000.00 threshold for federal court jurisdiction.
18 Therefore, both diversity jurisdiction and the damages threshold under the Class
19 Action Fairness Act of 2005 (“CAFA”) are present, and this Court has jurisdiction.

20 3. Venue is proper in the United States District Court for the Central
21 District of California pursuant to 18 U.S.C. 1391(b) and 18 U.S.C. § 1441(a)
22 because Defendant does business within the State of California, within the County
23 of Riverside and therefore in the Central District of California.

24 **PARTIES**

25 4. Plaintiff, Saber Ahmed (“Plaintiff”), is a natural person residing in
26 Winchester, California and is a “person” as defined by 47 U.S.C. § 153 (10).

27 5. Defendant, HSBC Bank USA, National Association (“Defendant”), is
28 a company in the business of lending money to consumers and collecting thereon;

1 and is a “person” as defined by *47 U.S.C. § 153 (10)*.

2 **FACTUAL ALLEGATIONS**

3 6. Beginning in and around February of 2015, Defendant contacted
4 Plaintiff on his cellular telephone number ending in -0234, in an attempt to collect
5 an alleged outstanding debt.

6 7. Defendant contacted or attempted to contact Plaintiff from a myriad
7 of different telephone numbers. As an illustrative example (and not one of
8 limitation), Defendant contacted or attempted to contact Plaintiff from the
9 following telephone numbers: (856) 917-0001; (877) 387-9031; (714) 418-4291;
10 (714) 418-4144; (856) 917-0050. To further illustrate Defendant’s illegal actions
11 (and, again, not one of limitation), Defendant contacted or attempted to contact
12 Plaintiff on or around 1) February 10, 2015 at 11:33 a.m. and 11:46 a.m.; 2)
13 February 12, 2015 at 2:55 p.m.; 3) February 13, 2015 at 11:40 a.m. and at 6:39
14 p.m.; 4) February 16, 2015 at 9:52 a.m.; 5) April 8, 2015 at 9:48 a.m.; 6) April 10,
15 2015 at 10:08 a.m.; 7) May 21, 2015 at 10:48 a.m.; 8) June 12, 2015 at 3:27 p.m.;
16 9) June 17, 2015 at 9:43 a.m.; 10) June 18, 2015 at 9:43 a.m. and 2:31 p.m.; 11)
17 August 5, 2015 at 10:18 a.m.; 12) August 14, 2014 at 9:41 a.m.; 13) August 21,
18 2015 at 1:34 p.m. and 2:29 p.m.; 14) August 22, 2015 at 9:30 a.m. and 2:44 p.m.;
19 15) August 24, 2015 at 8:44 a.m. and 1:35 p.m.; 16) August 25, 2015 at 9:25 a.m.,
20 11:19 a.m. and 1:14 p.m.; 17) September 3, 2015 at 9:25 a.m.; 18) September 16,
21 2015 at 8:33 a.m., 1:56 p.m., and 4:06 p.m.; 19) October 3, 2015 at 11:54 a.m.; 20)
22 October 5, 2015 at 2:43 p.m. and 4:12 p.m.; and 21) October 6, 2015 at 9:04 a.m.

23 8. Furthermore, during all relevant times, to place the aforementioned
24 calls (and, indeed, other calls not enumerated herein), Defendant used an
25 “automatic telephone dialing system”, as defined by *47 U.S.C. § 227(a)(1)* to place
26 its daily calls to Plaintiff seeking to collect the debt allegedly owed

27 9. Defendant’s calls constituted calls that were not for emergency
28 purposes as defined by *47 U.S.C. § 227(b)(1)(A)*.

1 members is impractical. While the exact number and identities of The Class
2 members are unknown to Plaintiff at this time and can only be ascertained through
3 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
4 The Class includes thousands of members. Plaintiff alleges that The Class
5 members may be ascertained by the records maintained by Defendant.

6 16. Plaintiff and members of The Class were harmed by the acts of
7 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
8 and Class members via their cellular telephones thereby causing Plaintiff and Class
9 members to incur certain charges or reduced telephone time for which Plaintiff and
10 Class members had previously paid by having to retrieve or administer messages
11 left by Defendant during those illegal calls, and invading the privacy of said
12 Plaintiff and Class members.

13 17. Common questions of fact and law exist as to all members of The
14 Class which predominate over any questions affecting only individual members of
15 The Class. These common legal and factual questions, which do not vary between
16 Class members, and which may be determined without reference to the individual
17 circumstances of any Class members, include, but are not limited to, the following:

- 18 a. Whether, within the four years prior to the filing of this
19 Complaint, Defendant made any collection call (other than a
20 call made for emergency purposes or made with the prior
21 express consent of the called party) to a Class member using
22 any automatic telephone dialing system or any artificial or
23 prerecorded voice to any telephone number assigned to a
24 cellular telephone service;
- 25 b. Whether Plaintiff and the Class members were damages
26 thereby, and the extent of damages for such violation; and
- 27 c. Whether Defendant should be enjoined from engaging in such
28 conduct in the future.

1 18. As a person that received numerous collection calls from Defendant
2 using an automatic telephone dialing system or an artificial or prerecorded voice,
3 without Plaintiff's prior express consent, Plaintiff is asserting claims that are
4 typical of The Class.

5 19. Plaintiff will fairly and adequately protect the interests of the members
6 of The Class. Plaintiff has retained attorneys experienced in the prosecution of
7 class actions.

8 20. A class action is superior to other available methods of fair and
9 efficient adjudication of this controversy, since individual litigation of the claims
10 of all Class members is impracticable. Even if every Class member could afford
11 individual litigation, the court system could not. It would be unduly burdensome
12 to the courts in which individual litigation of numerous issues would proceed.
13 Individualized litigation would also present the potential for varying, inconsistent,
14 or contradictory judgments and would magnify the delay and expense to all parties
15 and to the court system resulting from multiple trials of the same complex factual
16 issues. By contrast, the conduct of this action as a class action presents fewer
17 management difficulties, conserves the resources of the parties and of the court
18 system, and protects the rights of each Class member.

19 21. The prosecution of separate actions by individual Class members
20 would create a risk of adjudications with respect to them that would, as a practical
21 matter, be dispositive of the interests of the other Class members not parties to such
22 adjudications or that would substantially impair or impede the ability of such non-
23 party Class members to protect their interests.

24 22. Defendant has acted or refused to act in respects generally applicable
25 to The Class, thereby making appropriate final and injunctive relief with regard to
26 the members of the California Class as a whole.

27 **FIRST CAUSE OF ACTION**

28 **Negligent Violations of the Telephone Consumer Protection Act**

47 U.S.C. §227 et seq.

23. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-22.

24. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

25. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

26. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

27. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-26.

28. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

29. As a result of Defendant's knowing and/or willful violations of *47 U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

30. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

PRAYER FOR RELIEF

1 WHEREFORE, Plaintiff requests judgment against Defendant for the following:

2 **FIRST CAUSE OF ACTION**

3 **Negligent Violations of the Telephone Consumer Protection Act**

4 **47 U.S.C. §227 et seq.**

- 5 • As a result of Defendant's negligent violations of 47 U.S.C.
6 §227(b)(1), Plaintiff and the Class members are entitled to and
7 request \$500 in statutory damages, for each and every violation,
8 pursuant to 47 U.S.C. 227(b)(3)(B).
9 • Any and all other relief that the Court deems just and proper.

10 **SECOND CAUSE OF ACTION**

11 **Knowing and/or Willful Violations of the Telephone Consumer Protection**
12 **Act**

13 **47 U.S.C. §227 et seq.**

- 14 • As a result of Defendant's willful and/or knowing violations of 47
15 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to
16 and request treble damages, as provided by statute, up to \$1,500, for
17 each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47
18 U.S.C. §227(b)(3)(C).
19 • Any and all other relief that the Court deems just and proper.

20
21 Respectfully Submitted this 6th day of October, 2015.

22
23 **LAW OFFICES OF TODD M. FRIEDMAN, P.C.**

24
25 By: /s/ Todd M. Friedman
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